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SUBJECT: VIETNAM'S NATIONAL ASSEMBLY APPROVES TEN NEW LAWS,
CONTINUES INDIRECT CRITICISM OF PARTY'S ROLE IN SOCIETY

REF: A) Hanoi 1802; B) Hanoi 677; C) Hanoi 835

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¶1. (SBU) Summary: During an unusually long summer session convened May 16-June 29 to approve the new government selected by the Communist Party of Vietnam's (CPV) 10th Party Congress (Ref A), Vietnam's National Assembly (NA) also debated ten laws and approved three resolutions. These new laws include a Law on Lawyers, a Law on Legal Assistance, a Law on Information and Technology, a revised Aviation Law and a Securities Law. Assembly deputies also debated the GVN's controversial draft revisions of laws on residence, on associations and on the Labor Code. End Summary.

Newly Passed Laws - A Quick Look

¶2. (SBU) In addition to the controversy over corruption and the final approval of the new Government, the NA also debated ten new laws during this session, including a Law on Lawyers, a Law on Legal Assistance, a Law on Information and Technology, a revised Aviation Law, a Securities Law, a Cinema Law, a Law on Real Estate Trading, a Law on Sea Dikes, a Law on Standardization and a Law on HIV-AIDS Prevention and Control. One of the resolutions passed by the assembly defined for which types of national construction the GVN must request NA approval. Assembly deputies also debated the GVN's controversial draft revisions of laws on residence, associations and the Labor Code.

¶3. (SBU) The new Law on Lawyers, which replaces an existing National Assembly Standing Committee ordinance, allows foreign lawyers to provide consultative services on foreign and international laws and other legal services relating to foreign and international laws. The law stipulates, however, that foreign lawyers who wish to provide legal consultancies on Vietnamese law must hold a Vietnamese college law degree and meet all the requirements necessary for Vietnamese lawyers to provide legal services.

¶4. (SBU) The new Law on Legal Assistance provides that poor people, people who are credited with helping the revolutionary cause, lonely elderly people with disabilities, homeless children and ethnic minority people are eligible for free legal assistance. The law also stipulates that lawyers must provide free legal assistance to those who are eligible.

¶5. (SBU) The revised Law on Information Technology reportedly addresses some practices undermining information technology intellectual property rights (IPR) in Vietnam. The final text of the law has not been released; however, according to a Ministry of Posts and Telematics (MPT) official, only Article 70 of the law touches upon this issue. The article provides that protection for IPR in the IT field falls under the International Property law, but adds two exceptions. Citizens may make a "temporary copy of a

licensed work" in cases where there is technical need for a certain period. Users are also entitled to make copies of licensed software without asking for permission of the rightholder or paying royalty for the purpose of making backups. (Note: Current regulations on information technology are scattered in different legal documents and generally refer to technological application but do not address such issues as information safety, information security and protection of users. According to contacts, the new law aims to create a "legal corridor" for IT applications and development of the information industry. The IT law regulates applications, dispute settlements and sanctions applicable violations in the IT sector. The MPT will be responsible for taking the lead to coordinate with other relevant ministries in the state management of information technology. End Note.)

16. (SBU) The revised Civil Aviation Law stipulates that the GVN will "create favorable conditions" for Vietnamese carriers who are obligated to provide air services "to remote and poor mountainous areas." During the session, some delegates proposed that foreign carriers should be allowed to operate within Vietnam's domestic market as well, but these amendments were voted down. (Note: Vietnam, like other signatories to the Chicago Convention, reserves domestic markets only to domestic carriers. The deputies who proposed that foreign carriers should be allowed to operate within Vietnam's domestic markets were reportedly not aware of the Chicago Convention. The NA voted their amendments down after the NA discussed the implications of the convention. End Note.)

17. (SBU) The new draft Securities Law states that the State Securities Commission (SSC) should remain under the control of the Ministry of Finance (MOF) due to Vietnam's limited experience with stock markets. This proposal was hotly debated by NA deputies. Deputy Chairman Tao Huu Phung of the NA's Economic and Budgetary Committee and the Vietnam Association of Financial Investors (VAFI) reportedly defended the idea because the MOF is a powerful ministry and "makes policies on stock market development, State Owned Enterprise (SOE) reform, tax policy and accounting and auditing

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regulations." He also noted that since the SSC was put under MOF in 2004, Vietnam's stock market has taken off. Phung reportedly concluded that SSC should not be moved at present for fear that it would unsettle the market.

18. (SBU) Other delegates argued that since the MOF already controls the Tax Department, Customs Department and the Government's Pricing Committee, it will become even more of a "super-ministry" if SSC oversight is retained. Some deputies noted that the recent corruption scandals relating to ODA management indicate that the MOF does not have a sufficient capability to monitor closely all areas falling under their management. Others observed that the MOF is the issuing agency of Government bonds, while bond issuance is the purview of the SSC. If the SSC is kept under MOF, then the ministry will be both "the player and the referee" on the issuance of Government debt, a legal contradiction that should be avoided. One NA deputy also questioned the accuracy of the Government proposal, which mentioned that in most countries, the stock market is governed by a commission whose chairman is the minister of finance. The deputy cited that in five countries of the G-8, the securities commission is an independent agency. Phung reportedly replied that after several more years of stable development, an appropriate model could be created.

Less State Intervention in Associations Expected

19. (SBU) The NA discussion of the GVN's draft Law on Associations (REF C) focused on whether the law should cover all associations, including the so-called "legacy associations" which form part of the CPV's apparatus to control Vietnam's political system. At present these organizations operate under separate state laws and include the Vietnam Fatherland Front (the GVN's umbrella watchdog for popular organizations), the Vietnam General Confederation of Labor (the Trade Union), the Vietnam Peasants' Association (Farmers Association), the Ho Chi Minh Youth Union, the Vietnam War Veterans' Association and the Vietnam Women's Union. Religious organizations

are also excluded from the scope of the draft and already operate under the 2005 Ordinance on Religion. Nguyen Chi Dzong, a senior Office of the National Assembly (ONA) staffer and former Editor-in-Chief of the ONA-affiliated Legislative Journal, noted that many deputies think the law on associations should regulate all associations, including the CPV itself and all associations operating under the party's auspices.

¶10. (SBU) For his part, Vice Chairman of the ONA Nguyen Sy Dzong told Pol Assistant that there have been more and more voices questioning the scope of "the Party's decisions and intervention in Vietnam's political life, and a law on the Party would put the Party under the law and subject to law, not beyond." (Note: Vietnam's Constitution vaguely provides that "the CPV exercise its leadership over the State and the whole society." In an interview with local newspapers preceding the Party Congress, Vu Mao, Chairman of the National Assembly Foreign Relations Committee and a member of the previous CPV Central Committee, said he supported the idea of having a law on the Party. This interview ignited an unprecedented debate in the media in the lead-up to the Congress and the NA post-Congress session. REF A. End Note.)

¶11. (SBU) Many deputies also criticized the GVN's proposed procedures for establishing associations as overly complicated. Most deputies also expressed their belief that the State should not intervene too much in associations' activities, and that the current system of line-ministries managing associations should be abolished.

Some deputies proposed that only the Ministry of Home Affairs (MOHA) should manage associations at the central level, while provincial people's committees should manage associations formed at the local level. GVN drafters from MOHA succeeded in retaining language outlining line-ministry direct supervision of associations in their sector, despite the fact that in a preliminary vote the NASC voted the provision down, according to reliable sources.

Delegates Support Right to Choose Residence

¶12. (SBU) The GVN's draft law on residence also attracted considerable attention from delegates over a proposal to retain the current requirement for citizens to maintain household registration books. Drafters from the Ministry of Public Security (MPS) stressed that the books are vital in the fight against crime, particularly in big cities. NA deputies, however, noted that many officials use household registration books as a pretext to deny services to, or to hamper the legitimate business of, citizens who are not registered in their jurisdiction, though many Vietnamese do not reside in the jurisdiction in which they are officially registered as residents.

¶13. (SBU) Delegate Le Thi Nga from Thanh Hoa Province cited a report

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from the MPS that there are at least 380 separate regulations relating to residential registration, underlining that "such regulation limits citizenship rights." Nga proposed folding personal information currently maintained in household registration books and identity cards into a new form of national identity cards which would be granted right after a person is born. (Note: Current regulations provide that only those who are officially registered as residents in a province or city are eligible for certain benefits and allowances available in that province or city, and are allowed to formally register their property with local authorities. In-migrants are required to register their temporary residence and their travel from place of temporary residence with local authorities. End Note.)

¶14. (SBU) Most delegates supported Nga's viewpoints. Some argued, however, that if registration books are to be retained, they must be used only in tracking residency, and any regulation that limits other rights of citizens should be forbidden. Delegate Nguyen Dinh Loc, a former Minister of Justice, even questioned the scope of the draft law. According to him, only two out of 47 articles of the draft law relate to the right to residency, while the remaining 45 articles cover various aspects of State management of residency by common citizens. "Is this a law on citizens' right to residency or a

law on State management over citizens' residence?" he demanded. Some delegates observed that provisions in the draft law are just too strict. For example, one provision requires that citizens above the age of 14 who travel from their place of residence for three days need to register their travel plans with their place of residency and with officials in the place to which they intend to travel. (Note: Prominent religious and dissident figures, including UBCV Patriarch Thich Huyen Quang and political dissident Nguyen Khac Toan, have frequently complained that this requirement has been used by the GVN to prevent them from traveling freely within Vietnam, as permitted by law. End Note.)

Labor Code Reforms

15. (SBU) The NA also discussed a proposed amendment to Chapter 14 of the Labor Code relating to worker strikes. This amendment was submitted in the wake of hundreds of nationwide strikes at foreign and domestically owned firms earlier in 2006 related to wages and conditions. The amendment aims to streamline the procedures for calling legal strikes, as the current process for doing so is criticized as notoriously complex. Almost none of the 1000-odd strikes in the last decade have proceeded legally. During the debate, several deputies objected to the amendment as the revised Code should avoid limiting the right to strike and that striking is often "workers' last weapon" to protect their legitimate rights and benefits. The deputies also proposed that the code not divide collective labor disputes into two types -- rights and interests -- as currently defined, because it is difficult to clearly distinguish between rights and interests. (Note: Recent and strong criticism of the amendment in newspapers and on radio has asserted that the amendment fails to simplify the procedure. GVN officials have also complained to Econoff privately that the amendment attempts to create an administrative solution to a larger labor problem involving Vietnam's lack of independent and capable unions and collective bargaining mechanisms amid the country's transition to a market economy. End Note.)

COMMENT

16. (SBU) This latest NA session underscores that Vietnamese legislators are increasingly outspoken and willing to take on sensitive issues related to the Party and State authority. However, policy expertise remains a premium within the National Assembly (Ref B), as evidenced by the confusion surrounding the ability of foreign airlines to fly domestically. Until the legislature is able to develop homegrown policy expertise, it will continue to be beholden to Vietnam's line ministries and unable to play a preeminent role in Vietnam's lawmaking process.

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